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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,841	09/30/2002	Susanne Brakmann	B1180/20005	5272

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EXAMINER
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ALEXANDER, LYLE

ART UNIT	PAPER NUMBER
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1797

NOTIFICATION DATE	DELIVERY MODE
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02/15/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@crbcp.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/089,841	<b>Applicant(s)</b> BRAKMANN ET AL.	
	<b>Examiner</b> Lyle A. Alexander	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2007 and 06 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17,22,23 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17,22-23 and 27-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 17,22-23 and 29-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters (USP 4,299,920) in view of Elkins (USP 4,441,793) together further in view of Muramatsu (USP 6,645,434).

See the appropriate paragraphs of the 1/4/06 Office action for the teachings of the references combined above.

The 2/6/08 amendments have added the limitations the claimed flexible compartment is adhered to the glass plate “without adhesive”. The Office found support for these amendments on page 11 lines 8-12 of the original specification received 9/30/02. Peters in view of Elkins fails to teach the presently claimed limitation of “without adhesive.”

Muramatsu teach in claim 29 the crystalline sheet can be attached to the support substrate without using an adhesive. It would have been desirable not to use an adhesive to save on production costs and to avoid potent contamination of the sample by the adhesive. It would have been within the skill of the art to further modify Peters (USP 4,299,920) in view of Elkins (USP 4,441,793) together further in view of Muramatsu (USP 6,645,434) and not use an adhesive to attach the wall section(1) to the base plate(3) to gain the above advantages.

Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peters (USP 4,299,920) in view of Elkins (USP 4,441,793) together further in view of

Muramatsu (USP 6,645,434) as applied to claims 17-23 and 29-36 above, and further in view of Brown (USP 6,037,168).

See the appropriate paragraph of the 1/4/06 Office action.

***Response to Arguments***

Applicant's arguments filed 11/26/07 have been fully considered but they are not persuasive.

Applicants' state the above rejections teach a glass plate with a thickness of 170 microns which cannot be read on the claimed thickness of 150 microns. The Office maintains one having ordinary skill in the art would have expected similar results from the taught thickness of 170 microns as compared to the claimed 150 microns.

Applicants' state one having ordinary skill in the art would have expected the claimed slide of 150 microns to break. In the absence of corroborative evidence, the Office does not find these remarks convincing. A proper and timely 37 CFR 1.132 Declaration that showed data that the force to break a 150 micron slide is unexpectedly different than the force required to break a 170 micron slide maybe probative. (Note: The claimed 150 micron slide is approximately 12% thinner than the 170 micron slide. One having ordinary skill in the art would have expected the force to break the 150 micron slide to be about 12% less than the force to break 170 micron slide. A showing of the claimed 150 micron slide is more that about 12% more fragile than the 170 micron slide could be probative).

Applicants' state the combination of Peters (USP 4,299,920) in view of Elkins (USP 4,441,793) together further in view of Muramatsu (USP 6,645,434) as applied to

claims 17-23 and 29-36 above, and further in view of Brown (USP 6,037,168) would not have led one having ordinary skill in the art to the claimed invention. Applicants' did not provide any further reasoning for this position. The Office maintains the rejections of record are proper.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A. Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Tuesday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lyle A Alexander/

Primary Examiner, Art Unit 1797

Lyle A Alexander  
Primary Examiner  
Art Unit 1797